

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

ORIGINAL

MAGICAL FARMS, INC., et )  
al., )  
Plaintiffs, )  
vs. ) Case No. 1:03 CV 2054  
LAND O' LAKES, INC., et )  
al., )  
Defendants. )

Videotaped deposition of LIBBY M.

FORSTNER, a Plaintiff herein, called by the  
Defendants for cross-examination pursuant to the  
Federal Rules of Civil Procedure, taken before  
me, the undersigned, William S. Bish, RDR/CRR  
and Notary Public in and for the State of Ohio,  
at the offices of Kahn Kleinman, 1301 East Ninth  
Street, 2600 Erieview Tower, Cleveland, Ohio, on  
Tuesday, the 27th day of September, 2005 at 9:38  
o'clock a.m.

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1           A.       -- right now, but yeah, there were a  
2 couple.

3           Q.       Well, we will break today and then if  
4 you think of it overnight or something, if you  
5 don't we will talk about it tomorrow.

6           A.       Okay.

7                   MR. MENUEZ: Can we go off the  
8 record for a second.

9                   THE VIDEOGRAPHER: We're off the  
10 record.

11                   (Short recess had.)

12                   THE VIDEOGRAPHER: We're back on the  
13 record.

14 BY MR. MENUEZ:

15           Q.       All right. We were just talking about  
16 the animals that were involved in the feed  
17 incident and are on that spreadsheet in front of  
18 you as affected animals, and we were talking  
19 about them breeding and having cria. What about  
20 the cria, have you sold any of the cria, or has  
21 Magical Farms sold any of the cria that have  
22 resulted from the breedings from animals the  
23 parents would be on that list?

24           A.       We haven't sold any of the animals that  
25 are in the lawsuit, is that what you mean?

1           Q.       Well, let me -- let me break it into  
2 two questions. First of all have you sold any  
3 of the animals that are involved in the lawsuit?

4           A.       Not to my knowledge.

5           Q.       Okay. Have you tried to sell any of  
6 them?

7           A.       No, we have not.

8           Q.       All right. Is there a reason you have  
9 tried -- you haven't tried to sell any of them?

10          A.       Well, two reasons. One is they're  
11 involved in the lawsuit.

12          Q.       Okay.

13          A.       And the other is that we don't have any  
14 way of knowing the total extent of the damage,  
15 and we would have to sell an animal that we  
16 don't know -- we guarantee our animals when we  
17 sell an animal that they are sound and pass a  
18 vet exam, and our vet can't say this animal is  
19 -- is fine, this animal's unaffected, this  
20 animal is okay. And by looking at them you  
21 cannot tell the extent of any damage.

22          Q.       So if --

23          A.       So we --

24          Q.       -- if you look at --

25          A.       -- don't feel we can sell something

1 Q. And --

2 A. But I don't do sales, so...

3 Q. All right. And to your knowledge, it  
4 was also my understanding that to your  
5 knowledge there weren't any attempts to sell  
6 any of those animals?

7 A. To my knowledge we were not going to  
8 sell them.

9 Q. Okay. Do you know whether or not  
10 you've had to buy any animals back as a result  
11 of the feed incident?

12 A. I'm not -- that would be Trip.

13 Q. Okay. So to your knowledge you  
14 haven't but Trip would be the one?

15 A. Trip would be the one to know for  
16 sure.

17 Q. Okay. When a, when a cria is born  
18 on the farm to parents that are on the farm.

19 A. Okay.

20 Q. How do you go about registering that  
21 cria at Magical?

22 A. You mean the form that's filled out?

23 Q. Yeah, I mean just what process do you  
24 go through?

25 A. I don't know what they're currently

1       going through --

2           Q.     All right.

3           A.     -- to do the process.

4           Q.     What did you go through when -- do  
5       you know what they were going through in 2003  
6       and prior to that?

7           A.     Not exactly. I know what we did when  
8       I worked at the farm.

9           Q.     What did you do then?

10          A.     In those days we didn't have FTA  
11       cards, the registry required tubes, a little  
12       tube of blood. So the vet would pull the  
13       blood, put it in the tube, and we'd fill out  
14       the registration form, the application for  
15       registration form, because we didn't have on  
16       line registration then, there was only one  
17       option.

18          Q.     Uh-huh.

19          A.     And we would send blood along with  
20       the registration form to the registry and then  
21       they would test the blood to see if that cria  
22       was an offspring, qualified as the offspring  
23       of these two parents and if it did then they  
24       would issue a registration certificate.

25          Q.     Okay. When did on line registration